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EXAMINER	
CHEN, QING	
ART UNIT	**PAPER NUMBER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/786,823	BOCKING ET AL.	
	Examiner	Art Unit	
	Qing Chen	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-6,8-12,14-19 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-6,8-12,14-19 and 21-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to the amendment filed on August 21, 2008.

2. **Claims 1, 2, 4-6, 8-12, 14-19, and 21-23** are pending.

3. **Claims 1, 2, 4, 6, 8, 11, 12, 14, 19, 22, and 23** have been amended.

4. **Claims 3, 7, 13, and 20** have been canceled.

5. The objections to Claims 1, 2, 4-6, 8-11, 14-19, and 21-23 are withdrawn in view of Applicant's amendments to the claims. However, Applicant's amendments to Claim 12 fail to fully address the objection due to improper antecedent basis. Accordingly, this objection is maintained and further explained hereinafter.

6. The provisional nonstatutory obviousness-type double patenting rejections of Claims 1, 2, 4-6, 8-12, 14-19, and 21 are withdrawn in view of Applicant's arguments.

7. It is noted that Claims 6, 11, and 19 contain proposed amendments of deleted subject matter shown using double brackets. However, double brackets are used to show deletion of five or fewer consecutive characters. See 37 CFR 1.121(c)(2).

Response to Amendment

Claim Objections

8. **Claim 12** is objected to because of the following informalities:

- **Claim 12** recites the limitation "said application programs." Applicant is advised to change this limitation to read "said plurality of application programs" for the purpose of providing it with proper explicit antecedent basis and/or keeping the claim language consistent throughout the claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. **Claims 1, 2, 4, 5, 8, 11, 12, 14-19, and 21-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over **US 6,701,521 (hereinafter "McLlroy")** in view of **US 2002/0010652 (hereinafter "Deguchi")**.

As per **Claim 1**, McLlroy discloses:

- storing a plurality of programs at the host system *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*;

- storing a plurality of identifiers at the host system, with each of at least one of said plurality of identifiers being associated with at least one of said plurality of programs *(see Column 10: 44-57, "The file link configuration database 324 is linked to the file sharing manager 322 and specifies, for a particular database, its source file, category information, and the frequency of update for the database.")*;

- connecting the host system and the target system by a communication channel *(see Column 10: 64-66, "... portable computer system 100 can be interfaced with computer system 342 using a wireless (e.g., radio) connection.")*;

- sending a hardware identifier and a vendor identifier from the target system to the host system over the communication channel *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 12: 45-47, "... portable computer systems 920, 922, 924 and 926 can also communicate their hardware and software attributes to software manager 950.")*;

- receiving said hardware identifier and said vendor identifier at the host system *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950.")*;

- employing said plurality of identifiers and said received hardware identifier and said received vendor identifier to select one of said at least one of said plurality of programs for download from the host system to the target system *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*;

- associating a vendor with the target system *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*;

- employing said vendor identifier, which identifies said vendor *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*;

- storing a program associated with said hardware identifier at the host system *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*; and

- responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

However, McLlroy does not disclose:

- failing to find said received vendor identifier at the host system.

Deguchi discloses:

- failing to find said received vendor identifier at the host system *(see Paragraph [0070], "Referring back to FIG. 15, if at step 1540 server terminal 105 does not find a matching vendor ID in vendor ID database 864 corresponding to the device ID ...")*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Deguchi into the teaching of McLlroy to include failing to find said received vendor identifier at the host system. The modification would be obvious because one of ordinary skill in the art would be motivated to determine the availability of the application using vendor information.

As per **Claim 2**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- employing as said plurality of programs a plurality of application programs *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*;

- including an application loader at the host system *(see Figure 9A: 950)*;

- requesting said hardware identifier and said vendor identifier from the target system by said application loader over the communication channel *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950.")*;

- receiving said hardware identifier and said vendor identifier at said application loader *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950.")*;

- determining that said received hardware identifier and said received vendor identifier match one of said plurality of identifiers and responsively selecting one of said plurality of application programs *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915.")*; and

- downloading said selected one of said plurality of application programs over the communication channel from said application loader to the target system *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

As per **Claim 4**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- storing said hardware identifier for the target system with said vendor identifier at the target system *(see Column 12: 25-28, "The application description beamed from portable computer system 990 contains information sufficient for identifying and locating the application of interest, either locally or on the WWW.")*;

- requesting said hardware identifier and said vendor identifier from the target system by the host system over the communication channel *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950.")*;

- employing a plurality of vendor identifiers and associating one of said plurality of vendor identifiers and at least one hardware identifier with each of said plurality of programs at

the host system *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915.")*;

- determining that said received vendor identifier matches one of said plurality of vendor identifiers *(see Column 21: 64-67 to Column 22: 1-3, "... using the applications and attributes information 1230, software manager 955 can automatically search application source 915 to identify updated versions of the applications, components, objects or files currently installed on portable computer system 1220 and compatible with the hardware and software attributes of portable computer system 1220.")*; and

- determining that said received hardware identifier matches said at least one hardware identifier associated with said one of said plurality of vendor identifiers and responsively downloading said selected one of said at least one of said plurality of programs over the communication channel from the host system to the target system *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system."; Column 21: 64-67 to Column 22: 1-3, "... using the applications and attributes information 1230, software manager 955 can automatically search application source 915 to identify updated versions of the applications, components, objects or files currently installed on portable computer system 1220 and compatible with the hardware and software attributes of portable computer system 1220.")*.

As per **Claim 5**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- storing said hardware identifier for the target system with said vendor identifier at the target system *(see Column 12: 25-28, "The application description beamed from portable computer system 990 contains information sufficient for identifying and locating the application of interest, either locally or on the WWW.")*;

- storing a program associated with said hardware identifier at the host system *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*;

- requesting said hardware identifier and said vendor identifier from the target system by the host system over the communication channel *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950.")*;

- associating a vendor identifier and at least one hardware identifier with each of said plurality of programs at the host system *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 12: 45-47, "... portable computer systems 920, 922, 924 and 926 can also communicate their hardware and software attributes to software manager 950.")*;

- determining that said received vendor identifier has a predetermined value *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*; and

- downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

As per **Claim 8**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- downloading said selected one of said at least one of said plurality of programs over the communication channel from the host system to the target system *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*; and

- loading and executing said downloaded and selected one of said at least one of said plurality of programs at the target system *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

As per **Claim 11**, McLlroy discloses:

- a host system including a memory storing a plurality of programs, said memory also storing a plurality of identifiers, with each of at least one of said plurality of identifiers being associated with at least one of said plurality of programs *(see Figure 8: 342; Column 10: 44-57, "The file link configuration database 324 is linked to the file sharing manager 322 and specifies, for a particular database, its source file, category information, and the frequency of update for the database.")*;

- a target system including a hardware identifier representing said target system and a vendor identifier representing a vendor associated with said target system *(see Figure 8: 100; Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 12: 45-47, "... portable computer systems 920, 922, 924 and 926 can also communicate their hardware and software attributes to software manager 950.")*;

- a communication channel connecting said host system and said target system *(see Column 10: 64-66, "... portable computer system 100 can be interfaced with computer system 342 using a wireless (e.g., radio) connection.")*; and

- a loader routine adapted to execute at said host system, communicate with said target system through the communication channel, request and receive said hardware identifier and said vendor identifier from said target system over the communication channel, and employ said plurality of identifiers and said received hardware identifier and said received vendor identifier to select one of said at least one of said plurality of programs for download from said host system to said target system *(see Figure 8: 322; Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*,

- wherein said vendor identifier identifies said vendor *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*,

- wherein a program associated with said hardware identifier is stored at the host system *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*, and

- wherein said loader routine is further adapted to responsively download said program associated with said received hardware identifier over the communication channel from the host system to the target system *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

However, McLlroy does not disclose:

- failing to find said received vendor identifier at the host system.

Deguchi discloses:

- failing to find said received vendor identifier at the host system *(see Paragraph [0070], "Referring back to FIG. 15, if at step 1540 server terminal 105 does not find a matching vendor ID in vendor ID database 864 corresponding to the device ID ...")*.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Deguchi into the teaching of McLlroy to include failing to find said received vendor identifier at the host system. The modification would

be obvious because one of ordinary skill in the art would be motivated to determine the availability of the application using vendor information.

As per **Claim 12**, the rejection of **Claim 11** is incorporated; and McLlroy further discloses:

- wherein said plurality of programs are a plurality of application programs; and wherein said loader routine is an application loader routine adapted to request said hardware identifier and said vendor identifier from said target system over the communication channel, receive said hardware identifier and said vendor identifier, determine that said received hardware identifier and said received vendor identifier match one of said plurality of identifiers and responsively select one of said plurality of application programs, and download said selected one of said plurality of application programs over the communication channel to said target system *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950."; Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system."; Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...").*

As per **Claim 14**, the rejection of **Claim 11** is incorporated; and McLlroy further discloses:

- wherein said loader routine is further adapted to employ a plurality of vendor identifiers, request said hardware identifier and said vendor identifier from said target system over the communication channel, receive said hardware identifier and said vendor identifier, associate a vendor identifier and at least one hardware identifier with each of said plurality of programs, determine that said received vendor identifier matches one of said plurality of vendor identifiers, and determine that said received hardware identifier matches said at least one hardware identifier associated with said one of said plurality of vendor identifiers and responsively download said selected one of said at least one of said plurality of programs over the communication channel to said target system *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950."; Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system."; Column 21: 64-67 to Column 22: 1-3, "... using the applications and attributes information 1230, software manager 955 can automatically search application source 915 to identify updated versions of the applications, components, objects or files currently installed on portable computer system 1220 and compatible with the hardware and software attributes of portable computer system 1220.").*

As per **Claim 15**, the rejection of **Claim 11** is incorporated; and McLlroy further discloses:

- wherein said vendor identifier is associated with a wireless communication vendor; and wherein said target system includes a first wired communication port adapted to communicate with said communication channel, and a second wireless communication port adapted to communicate with said wireless communication vendor *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 8: 18-23, "... the communication interface 180 is a serial communication port, but could also alternatively be of any of a number of well-known communication standards and protocols, e.g., parallel, SCSI (small computer system interface), Firewire (IEEE1394), Ethernet, etc." and 48-52, "In one implementation the Mobitex wireless communication system is used to provide two-way communication between computer system 100 and other networked computers and/or the Internet via a proxy server (see FIG. 1A).")*.

As per **Claim 16**, the rejection of **Claim 11** is incorporated; and McLlroy further discloses:

- wherein said target system is a mobile electronic device *(see Column 6: 53-54, "Portable computer system 100 is also known as a palmtop or palm-sized computer system.")*.

As per **Claim 17**, the rejection of **Claim 16** is incorporated; and McLlroy further discloses:

- wherein said mobile electronic device is a handheld electronic device *(see Column 6: 53-54, "Portable computer system 100 is also known as a palmtop or palm-sized computer system.").*

As per **Claim 18**, the rejection of **Claim 17** is incorporated; and McLlroy further discloses:

- wherein said handheld electronic device is a wireless handheld electronic device *(see Column 6: 53-57, "Portable computer system 100 is also known as a palmtop or palm-sized computer system." and "... portable computer system 100 has the ability to transmit and receive data and information over a wireless communication interface (e.g., a radio interface).").*

As per **Claim 19**, the rejection of **Claim 11** is incorporated; and McLlroy further discloses:

- wherein said host system is selected from the group consisting of a workstation, and a personal computer *(see Column 9: 63-66, "... an exemplary host computer system 342 (e.g., desktop computer system 56 or laptop computer system 58 of FIG. 1B) ...").*

As per **Claim 21**, the rejection of **Claim 18** is incorporated; and McLlroy further discloses:

- wherein said vendor identifier is associated with a wireless communication vendor; and wherein said wireless handheld electronic device includes a first wired communication port adapted to communicate with said communication channel, and a second wireless

communication port adapted to communicate with said wireless communication vendor *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 8: 18-23, "... the communication interface 180 is a serial communication port, but could also alternatively be of any of a number of well-known communication standards and protocols, e.g., parallel, SCSI (small computer system interface), Firewire (IEEE1394), Ethernet, etc." and 48-52, "In one implementation the Mobitex wireless communication system is used to provide two-way communication between computer system 100 and other networked computers and/or the Internet via a proxy server (see FIG. 1A).").*

As per **Claim 22**, the rejection of **Claim 21** is incorporated; and McLlroy further discloses:

- wherein said selected one of said at least one of said plurality of programs is adapted to enable wireless communication between said second wireless communication port of said wireless handheld electronic device and said wireless communication vendor *(see Column 8: 48-52, "In one implementation the Mobitex wireless communication system is used to provide two-way communication between computer system 100 and other networked computers and/or the Internet via a proxy server (see FIG. 1A).").*

As per **Claim 23**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- employing a wireless handheld electronic device as said target system *(see Column 6: 53-57, "Portable computer system 100 is also known as a palmtop or palm-sized computer system." and "... portable computer system 100 has the ability to transmit and receive data and information over a wireless communication interface (e.g., a radio interface).")*;

- associating said vendor identifier with a wireless communication vendor *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*;

- downloading said selected one of said at least one of said plurality of programs over the communication channel from the host system to the wireless handheld electronic device *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*; and

- loading and executing said downloaded and selected one of said at least one of said plurality of programs at the wireless handheld electronic device to communicate with said wireless communication vendor *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

11. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **McLlroy** in view of **US 6,496,979 (hereinafter "Chen")** and **US 5,860,012 (hereinafter "Luu")**.

As per **Claim 6**, McLlroy discloses:

- storing a plurality of programs at the host system *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*;

- storing a plurality of identifiers at the host system, with each of at least one of said plurality of identifiers being associated with at least one of said plurality of programs *(see Column 10: 44-57, "The file link configuration database 324 is linked to the file sharing manager 322 and specifies, for a particular database, its source file, category information, and the frequency of update for the database.")*;

- connecting the host system and the target system by a communication channel *(see Column 10: 64-66, "... portable computer system 100 can be interfaced with computer system 342 using a wireless (e.g., radio) connection.")*;

- sending a hardware identifier and a vendor identifier from the target system to the host system over the communication channel *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information."; Column 12: 45-47, "... portable computer systems 920, 922, 924 and 926 can also communicate their hardware and software attributes to software manager 950.")*;

- receiving said hardware identifier and said vendor identifier at the host system *(see Column 13: 4-6, "... portable computer systems 924 and 926 can also communicate information identifying their hardware and software attributes to software manager 950.")*;

- employing said plurality of identifiers and said received hardware identifier and said received vendor identifier to select one of said at least one of said plurality of programs for download from the host system to the target system *(see Column 18: 1-5, "... a specification*

1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.");

- associating a vendor with the target system *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*;

- employing said vendor identifier, which identifies said vendor *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*;

- storing a program associated with said hardware identifier at the host system *(see Column 19: 21-23, "... applications are located at application source 915 (e.g., a site on the WWW) ...")*; and

- responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

However, McLlroy does not disclose:

- storing said plurality of identifiers in a file at the host system; and
- failing to find said file at the host system.

Chen discloses:

- storing said plurality of identifiers in a file at the host system *(see Column 14: 39-45, "The user interface 163 includes a list 165 of available application programs stored as application setup package files in the store 8 with suitable identifiers 167 ...").*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chen into the teaching of McLlroy to include storing said plurality of identifiers in a file at the host system. The modification would be obvious because one of ordinary skill in the art would be motivated to provide persistent storage of information.

Luu discloses:

- failing to find said file at the host system *(see Column 5: 31-35, "A custom personality file resides on the user workstation. In operation, the installation program on the user workstation will search for a custom personality file. If no custom personality file is found, a default personality file will be utilized to perform the installation.").*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Luu into the teaching of McLlroy to include failing to find said file at the host system. The modification would be obvious because one of ordinary skill in the art would be motivated to determine the availability of the application using information stored in a file.

12. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over **McLlroy** in view of **Deguchi** as applied to Claim 1 above, and further in view of **Chen** and **US 6,151,643 (hereinafter "Cheng")**.

As per **Claim 9**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- associating a version number with each of said plurality of programs *(see Column 12: 30-37, "The application description can also contain information identifying the version of the application of interest, the name of the application, the vendor's name, or other such identifying information.")*;

- associating one of said plurality of identifiers in said file at the host system with one of said plurality of programs having said version number for said one of said plurality of programs *(see Column 13: 22-29, "... the version of the software elements (e.g., the application itself or files, components or objects for the application) that is compatible with the hardware and software attributes of portable computer systems 920, 922, 924 or 926 is retrieved from application source 915 based on the application description received from portable computer system 990.")*; and

- storing said new program at the host system *(see Column 18: 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system.")*.

However, McLlroy and Deguchi do not disclose:

- storing said plurality of identifiers in a file at the host system; and

- updating said file to associate said one of said plurality of identifiers with a new program, which is different than said plurality of programs, and which has a new version number, which is different than said version number.

Chen discloses:

- storing said plurality of identifiers in a file at the host system *(see Column 14: 39-45, "The user interface 163 includes a list 165 of available application programs stored as application setup package files in the store 8 with suitable identifiers 167 ...").*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chen into the teaching of McLlroy to include storing said plurality of identifiers in a file at the host system. The modification would be obvious because one of ordinary skill in the art would be motivated to provide persistent storage of information.

Cheng discloses:

- updating said file to associate said one of said plurality of identifiers with a new program, which is different than said plurality of programs, and which has a new version number, which is different than said version number *(see Column 10: 26-32, "The update database 709 maintains information identifying a large number of software products, information about the software updates that are available from the diverse software product vendors for these software products, information for identifying software products installed on a client computer 101, and for uniquely distinguishing the versions and names of installed software products.").*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Cheng into the teaching of McLlroy to include updating said file to associate said one of said plurality of identifiers with a new program, which is different than said plurality of programs, and which has a new version number, which is different than said version number. The modification would be obvious because one of ordinary skill in the art would be motivated to maintain update information about the application.

13. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over **McLlroy** in view of **Deguchi** as applied to Claim 1 above, and further in view of **Chen**.

As per **Claim 10**, the rejection of **Claim 1** is incorporated; and McLlroy further discloses:

- determining that one of said plurality of identifiers matches said received hardware identifier and said received vendor identifier *(see Column 18: 1-5, "... a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915.").*

However, McLlroy and Deguchi do not disclose:

- determining that none of said plurality of programs corresponds to said one of said plurality of identifiers and responsively displaying an error message at the host system.

Chen discloses:

- determining that none of said plurality of programs corresponds to said one of said plurality of identifiers and responsively displaying an error message at the host system *(see Column 10: 53-60, "... if the user first attempts to install the setup package file for the city, Seattle, without first installing the map viewer, the "init" function determines that the map viewer is not installed and displays an error message, possibly providing information on where the user can obtain the map viewer.").*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chen into the teaching of McLlroy to include determining that none of said plurality of programs corresponds to said one of said plurality of identifiers and responsively displaying an error message at the host system. The modification would be obvious because one of ordinary skill in the art would be motivated to provide the user with useful information regarding the error *(see Chen – Column 10: 53-60).*

Response to Arguments

14. Applicant's arguments filed on August 21, 2008 have been fully considered, but they are not persuasive.

In the Remarks, Applicant argues:

a) Applicants' attorney maintains the prior position, of record, that these claims do not require such changes under any patent law, rule or procedure, in order to provide proper antecedent basis. The Examiner admits (Office Action, page 34) that the former claims "have

antecedent basis" and is apparently requiring an explicit basis without citation of a law, rule or procedure that requires such an explicit antecedent basis.

Examiner's response:

a) Examiner disagrees. As previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that providing the various limitations of the claims with proper explicit antecedent basis would improve the clarity or precision of the claim language used or, at the very least, keep the claim language consistent throughout the claims. Examiner further submits the relevant portions of MPEP § 2173.02 and 37 CFR 1.75 with emphasis added for purposes of convenience in discussion and illustration:

> **MPEP § 2173.02 Clarity and Precision**
> The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. **Examiners are encouraged to suggest claim language to applicants to improve the clarity or precision of the language used**, but should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirement.

> **37 CFR 1.75 Claim(s).**
> (a) The specification must conclude with a claim **particularly pointing out** and **distinctly claiming** the subject matter which the applicant regards as his invention or discovery.

According to the section of the MPEP and the patent rule provided above, the Examiner would like to point out that a claim must particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In accordance with MPEP § 2173.02, the Examiner suggests keeping the claim language consistent throughout the claims to improve the clarity or precision of the claim language used. Hence, doing so would help the Examiner in reviewing the claims for compliance with 35 U.S.C. 112, second paragraph.

In the Remarks, Applicant argues:

b) The Examiner admits (Office Action, page 13) that McLlroy et al. does not teach or suggest failing to find a received vendor identifier at a host system.

As such, McLlroy et al. must also not teach or suggest failing to find a received vendor identifier at a host system and responsively downloading a program associated with a received hardware identifier over a communication channel from such host system to a target system.

Examiner's response:

b) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, with respect to the Applicant's assertion that McLlroy must also not teach or suggest failing to find a received vendor identifier at a host system and responsively downloading a program associated with a received hardware identifier over a communication channel from such host system to a target system, the Examiner respectfully submits that the limitations "failing to find said received vendor identifier at the host system" and "responsively

downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system" are disjointed and there is no clear and explicit language in the claims that suggests the two limitations are connected together in a defined relationship. In other words, the claim language does not require the downloading step to occur only if a precondition is satisfied, that is, when the vendor identifier is not found at the host system. Although the claim recites "responsively downloading," however, such recitation does not explicitly associate the downloading step with the precondition of failing to find the vendor identifier at the host system. Instead, it merely describes that the downloading step occurs in response to an unknown precondition or any of the previously occurring steps.

If Applicant intends on defining a relationship between the limitations "failing to find said received vendor identifier at the host system" and "responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system," then Applicant is reminded that the claim language requires to specifically recite such relationship in the claims, otherwise broadest reasonable interpretations of the broadly claimed limitations are deemed to be proper.

Second, with respect to the Applicant's assertion that McLlroy does not teach or suggest responsively downloading a program associated with a received hardware identifier over a communication channel from such host system to a target system, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that McLlroy clearly discloses "responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system" *(see Column 18: 1-5, "... a specification 1040 comprising*

application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915." and 10-13, "... applications may be downloaded and stored in memory of computer system 342, and then subsequently accessed by a portable computer system."). Note that the software manager uses a specification containing hardware and software information to locate and download the applications.

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 103(a) with respect to Claims 1, 6, and 11 are proper and therefore, maintained.

In the Remarks, Applicant argues:

c) Second, Deguchi is not reasonably pertinent to the particular problem with which the Applicants were concerned. Applicants' particular problem concerns employing a received vendor identifier to select a program for download from a host system to a target system, associating a vendor with the target system, employing the vendor identifier, which identifies the vendor, and failing to find the received vendor identifier at the host system and responsively downloading a program associated with a received hardware identifier over a communication channel from the host system to the target system.

In complete contrast, Deguchi concerns whether server terminal 105 (Figure 1) does not find a matching music vendor ID in music vendor ID database 864 (Figure 12) corresponding to the music marker device ID, and, then at step 1580 (Figure 15), server terminal 105 retrieves from music clip playlist database 862 (Figure 10) information corresponding to the bookmarked music clips and transmits the retrieved information to user terminal 103 (Figure 1). Again, this

concerns downloading bookmarked music clip information as opposed to downloading a program. Moreover, the music vendor ID concerns a vendor of music and/or a vendor of an electronic music marker device 101 (Figures 1 and 3) rather than a vendor associated with a target system, such as user terminal 103 (Figure 1). Hence, this clearly does not constitute matter that logically would have commended itself to an inventor's attention in considering his problem. Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 U.S.P.Q.2d 1767 (Fed. Cir. 1993). Accordingly, the second test of In re Oetiker is not met.

Examiner's response:

c) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, without acquiescing to the Applicant's assertion that Deguchi's music vendor ID concerns a vendor of music and/or a vendor of an electronic music marker device rather than a vendor associated with a target system, such as user terminal, the Examiner first submits that the claims do not require any limitation relating to limiting the scope of a target system to a user terminal. The claims only require a target system and thus, the claims are only limited to the scope of such. Applicant is reminded that in order for such limitations to be considered, the claim language requires to specifically recite such limitations in the claims, otherwise broadest reasonable interpretations of the broadly claimed limitations are deemed to be proper.

Second, Examiner respectfully submits the relevant portions of MPEP § 2141.01(a) with emphasis added for purposes of convenience in discussion and illustration:

MPEP § 2141.01(a) Analogous and Nonanalogous Art

I. TO RELY ON A REFERENCE UNDER 35 U.S.C. 103, IT MUST BE ANALOGOUS PRIOR ART

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. **> **"Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed. "** *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1397 (2007). **Thus a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole.**<

II. **> CONSIDER< SIMILARITIES AND DIFFERENCES IN STRUCTURE AND FUNCTION **

While Patent Office classification of references and the cross-references in the official search notes of the class definitions are some evidence of "nonanalogy" or "analogy" respectively, **the court has found "the similarities and differences in structure and function of the inventions to carry far greater weight."** *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973) (The structural similarities and functional overlap between the structural gratings shown by one reference and the shoe scrapers of the type shown by another reference were readily apparent, and therefore the arts to which the reference patents belonged were reasonably pertinent to the art with which appellant's invention dealt (pedestrian floor gratings).).**

V. ANALOGY IN THE ELECTRICAL ARTS

See, for example, ** *Medtronic, Inc. v. Cardiac Pacemakers*, 721 F.2d 1563, 220 USPQ 97 (Fed. Cir. 1983) (Patent claims were drawn to a cardiac pacemaker which comprised, among other components, a runaway inhibitor means for preventing a pacemaker malfunction from causing pulses to be applied at too high a frequency rate. **Two references disclosed circuits used in high power, high frequency devices which inhibited the runaway of pulses from a pulse source. The court held that one of ordinary skill in the pacemaker designer art faced with a rate-limiting problem would look to the solutions of others faced with rate limiting problems, and therefore the references were in an analogous art.**).

According to the section of the MPEP provided above, the Examiner would like to point out that a reference in a field different from that of the Applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole. In the instant application, Applicant is concerned with associating a particular software program with a particular software vendor. Similarly, Deguchi is concerned with associating a particular electronic music marker device with a particular device vendor. Thus, one of ordinary skill in the art would readily comprehend that associating a particular electronic music marker device with a particular device vendor is reasonably pertinent to the matter of associating a particular software program with a particular software vendor. Both inventions share commonalities for at least the reason that both utilize a vendor ID to link a vendor to its products. Furthermore, with respect to the Applicant's assertion that Deguchi concerns downloading bookmarked music clip information as opposed to downloading a program, the Examiner further submits that inasmuch as Deguchi is concerned with downloading bookmarked music clip information, one of ordinary skill the art would readily recognize that bookmarked music clip information and a program file are, ultimately, computer data. Thus, downloading bookmarked music clip information is functionally equivalent to downloading a program file. One of ordinary skill the art attempting to implement a solution utilizing a vendor ID in downloading a software program would look to the solutions of others faced with similar problems, such as, by utilizing a vendor ID in downloading music information. Therefore, in view of the foregoing analysis, Deguchi is an analogous art.

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 103(a) with respect to Claims 1 and 11 are proper and therefore, maintained.

In the Remarks, Applicant argues:

d) Deguchi, which discloses (Figure 15) that server terminal 105 (Figure 1) does not find a matching music vendor ID in music vendor ID database 864 (Figure 12) corresponding to a music marker device ID of music marker device 101 (Figure 1), and which retrieves from music clip playlist database 862 information corresponding to the bookmarked music clips and transmits the retrieved information to user terminal 103, does not teach or suggest failing to find a received vendor identifier at a host system and responsively downloading a program associated with a received hardware identifier over a communication channel from a host system to a target system.

Examiner's response:

d) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Second, with respect to the Applicant's assertion that Deguchi does not teach or suggest responsively downloading a program associated with a received hardware identifier over a communication channel from a host system to a target system, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner would like to point out that Deguchi is relied upon for its specific teaching of "failing to find said

received vendor identifier at the host system." McLlroy clearly discloses "responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system" as discussed in Examiner's response (b) hereinabove and thus, Applicant's argument regarding Deguchi does not teach or suggest responsively downloading a program associated with a received hardware identifier over a communication channel from a host system to a target system is, at best, moot. Thus, in view of the teaching of Deguchi, one of ordinary skill in the art would be motivated to incorporate the teaching of Deguchi into the teaching of McLlroy to include failing to find said received vendor identifier at the host system in order to determine the availability of the application using vendor information.

Third, with respect to the Applicant's assertion that Deguchi does not teach or suggest failing to find a received vendor identifier at a host system, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that Deguchi clearly discloses "failing to find said received vendor identifier at the host system" *(see Paragraph [0070], "Referring back to FIG. 15, if at step 1540 server terminal 105 does not find a matching vendor ID in vendor ID database 864 corresponding to the device ID ...")*. Note that a matching vendor ID is not found at the server terminal.

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 103(a) with respect to Claims 1 and 11 are proper and therefore, maintained.

In the Remarks, Applicant argues:

e) Luu, which discloses that if no custom personality file is found, a default personality file will be utilized to perform an installation, does not teach or suggest failing to find a file at a host system and responsively downloading a program associated with a received hardware identifier over a communication channel from a host system to a target system.

Examiner's response:

e) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Second, with respect to the Applicant's assertion that Luu does not teach or suggest responsively downloading a program associated with a received hardware identifier over a communication channel from a host system to a target system, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner would like to point out that Luu is relied upon for its specific teaching of "failing to find said file at the host system." McLlroy clearly discloses "responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system" as discussed in Examiner's response (b) hereinabove and thus, Applicant's argument regarding Luu does not teach or suggest responsively downloading a program associated with a received hardware identifier over a communication channel from a host system to a target system is, at best, moot. Thus, in view of the teaching of Luu, one of

ordinary skill in the art would be motivated to incorporate the teaching of Luu into the teaching of McLlroy to include failing to find said file at the host system in order to determine the availability of the application using information stored in a file.

Third, with respect to the Applicant's assertion that Luu does not teach or suggest failing to find a received vendor identifier at a host system, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that Luu clearly discloses "failing to find said file at the host system" *(see Column 5: 31-35, "A custom personality file resides on the user workstation. In operation, the installation program on the user workstation will search for a custom personality file. If no custom personality file is found, a default personality file will be utilized to perform the installation.")*. Note that a custom personality file is not found at the user workstation.

Therefore, for at least the reasons set forth above, the rejection made under 35 U.S.C. § 103(a) with respect to Claim 6 is proper and therefore, maintained.

In the Remarks, Applicant argues:

f) Clearly, Chen et al., which concerns identifiers 167 of a user interface display, adds nothing to McLlroy et al. and Deguchi regarding storing a plurality of identifiers in a file at a host system.

The Examiner argues (Office Action, page 30) that McLlroy et al. (column 13, lines 22-29) discloses associating one of a plurality of identifiers "in said file at the host system" with one of a plurality of programs having a version number for such one of the plurality of programs. Clearly, this cannot be since the Examiner admits (Office Action, page 30) that McLlroy et al.

does not teach or suggest storing a plurality of identifiers in a file at a host system. Furthermore, it is submitted that Chen et al. and Deguchi add nothing to McLlroy et al. regarding storing a plurality of identifiers in a file at a host system.

Examiner's response:

f) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Second, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that Chen clearly discloses "storing said plurality of identifiers in a file at the host system" *(see Column 14: 39-45, "The user interface 163 includes a list 165 of available application programs stored as application setup package files in the store 8 with suitable identifiers 167 ...")*. Note that the application setup package files are stored in the store with suitable identifiers.

Third, with respect to the Applicant's assertion that McLlroy cannot disclose associating one of a plurality of identifiers "in said file at the host system" with one of a plurality of programs having a version number for such one of the plurality of programs since the Examiner admits that McLlroy does not teach or suggest storing a plurality of identifiers in a file at a host system, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that McLlroy clearly discloses

"associating one of said plurality of identifiers in said file at the host system with one of said plurality of programs having said version number for said one of said plurality of programs" *(see Column 13: 22-29, "... the version of the software elements (e.g., the application itself or files, components or objects for the application) that is compatible with the hardware and software attributes of portable computer systems 920, 922, 924 or 926 is retrieved from application source 915 based on the application description received from portable computer system 990.").* Note that the version of the software elements that is compatible with the hardware and software attributes is retrieved from the application source (the host system) based on the application description (said file).

Therefore, for at least the reasons set forth above, the rejection made under 35 U.S.C. § 103(a) with respect to Claim 9 is proper and therefore, maintained.

In the Remarks, Applicant argues:

g) Cheng et al. does not teach or suggest updating the recited file of Claim 9, which stores the recited plurality of identifiers, in order to associate the recited one of the plurality of identifiers with a new program.

Examiner's response:

g) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Second, with respect to the Applicant's assertion that Cheng does not teach of suggest updating the recited file of Claim 9, which stores the recited plurality of identifiers, in order to associate the recited one of the plurality of identifiers with a new program, as previously pointed out in the Non-Final Rejection (mailed on 05/23/2008) and further clarified hereinafter, the Examiner respectfully submits that Cheng clearly discloses "updating said file to associate said one of said plurality of identifiers with a new program, which is different than said plurality of programs, and which has a new version number, which is different than said version number" *(see Column 10: 26-32, "The update database 709 maintains information identifying a large number of software products, information about the software updates that are available from the diverse software product vendors for these software products, information for identifying software products installed on a client computer 101, and for uniquely distinguishing the versions and names of installed software products.")*. Note that the update database (said file) is updated to maintain information about the software products, such as versions and names of the software products.

Therefore, for at least the reasons set forth above, the rejection made under 35 U.S.C. § 103(a) with respect to Claim 9 is proper and therefore, maintained.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Qing Chen whose telephone number is 571-270-1071. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 4:00 PM. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wei Zhen, can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Q. C./

Examiner, Art Unit 2191

/Wei Y Zhen/

Supervisory Patent Examiner, Art Unit 2191